

STATE OF MAINE
DIRIGO HEALTH AGENCY

RE:	REVIEW OF AGGREGATE)	MOTION OF THE MAINE
	MEASURABLE COST SAVINGS)	AUTOMOBILE DEALERS
	DETERMINED BY DIRIGO)	ASSOCIATION INSURANCE
	HEALTH FOR THE SECOND)	TRUST TO INTERVENE
	ASSESSMENT YEAR (2007))	AS A MATTER OF RIGHT

NOW COMES the Maine Automobile Dealers Association Insurance Trust, ("MADAIT") by and through its undersigned counsel, and, pursuant to 24-A M.R.S.A. § 6913(1)(A), 5 M.R.S.A. § 9054(1), and the Dirigo Health Agency's (the "Agency") Notice of Pending Proceeding and Hearing dated January 27, 2006, moves to intervene in this adjudicatory proceeding as a matter of right. In support of this motion, MADAIT states as follows:

1. Under 5 M.R.S.A. § 9054(1), a party is entitled to intervene as a matter of right in an adjudicatory proceeding conducted by the Agency when that person "show[s] that he is or may be, or is a member of a class which is or may be, substantially and directly affected by the proceeding."

2. MADAIT is a multiple employer welfare arrangement ("MEWA") that secures health insurance for approximately 3,200 employee participants, and approximately 5,800 insurable lives.

3. MADAIT was an intervenor in the proceedings to determine aggregate measurable cost savings before the Superintendent of Insurance (the "Superintendent") for the first assessment year (Docket No. INS-05-700).

4. MADAIT employs a third-party administrator ("TPA") to manage and administer its health insurance program. Under 24-A M.R.S.A. §§ 6913(2)-(3), MADAIT's TPA will be subject to savings offset surcharges of up to 4% of paid claims if the Agency's Board of

Directors determines the existence of aggregate measurable cost savings for the second assessment year.

5. Any such savings offset surcharges will be passed on by the TPA to MADAIT. Because it does not have reserves to pay the costs passed on by the TPA, MADAIT will, in turn, be forced to pass those costs on to its participants. Therefore, any savings offset surcharge will *necessarily* result in higher health insurance costs to MADAIT's employee participants.

6. Accordingly, MADAIT, its members, and its participants are substantially and directly affected by this proceeding. In the alternative, for the foregoing reasons, the Trust should be granted intervenor status pursuant to 5 M.R.S.A. § 9054(2) as a full participant in this proceeding.

7. MADAIT also adopts and incorporates the argument of the Maine State Chamber of Commerce (the "Chamber") in its Application to Intervene and Objection to Provisions in the Notice and Draft Procedural Order filed in this matter.

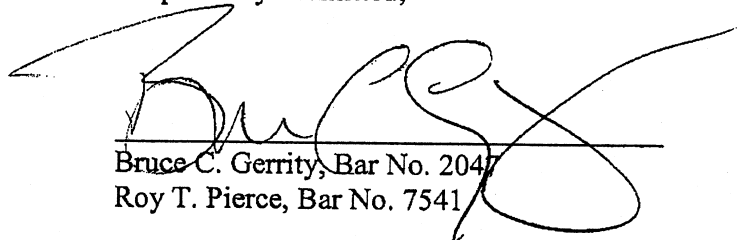
8. The Notice of Pending Proceeding and Hearing attempts to place additional burdens on Intervenors that are not supported by Agency rules or by the Administrative Procedures Act. Intervenors cannot be ordered to produce "a methodology to be considered by the Board" or components of an aggregate measurable cost savings analysis with supporting data. The Notice fundamentally misapprehends both the burden on the Agency and the Board in an adjudicatory proceeding and the role of the intervenors. It is the Board that must make a decision on aggregate measurable cost savings based, in turn, on credible evidence provided by the Agency, which carries the burden of proof. Intervenors have a right to participate fully and present evidence and argument. See 5 M.R.S.A. § 9056(2). The Board cannot direct or circumscribe that participation as it has attempted to do here.

9. In addition, the draft Procedural Order disseminated by the Board is unreasonable, violates due process, and guarantees that intervenors will be deprived of a fair opportunity to participate in this process. The hearing last fall before the Superintendent in INS-05-700 resulted in five volumes of pleadings with 99 filings. The record on appeal of the proceedings as filed by the Superintendent comprised 10 volumes. The proposed procedure in this matter, which allows no discovery period and requires detailed documentation and expert witness filings before the Agency even identifies its methodology and provides supporting data, is unrealistic and fundamentally unfair. All of the time frames set forth in the draft Order are equally unworkable.

WHEREFORE, the Maine Automobile Dealers Association Insurance Trust respectfully requests that the Dirigo Health Agency grant it intervenor status with the right to fully participate in this proceeding. The Maine Automobile Dealers Association Insurance Trust further requests that the Board adopt a process similar to that used by the Superintendent for the first assessment year and hold a prehearing conference to develop a fair and workable prehearing schedule.

Dated: February 9, 2006

Respectfully submitted,



Bruce C. Gerrity, Bar No. 2047
Roy T. Pierce, Bar No. 7541

PRETI, FLAHERTY, BELIVEAU, PACHIOS & HALEY, LLP
45 Memorial Circle
P.O. Box 1058
Augusta, ME 04332-1058
(207) 623-5300